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Nellis *et al.*
Appl. No. 09/852,093***Remarks***

The foregoing amendment is hereby submitted for the Examiner's consideration to cancel unelected claims further to the Examiner's Restriction Requirement, comply with the requirement of form expressly set forth in the Office Action, and better place the present application in condition for allowance, in accordance with 37 C.F.R. § 1.116(a).

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-12 are pending in the application, with 1 being the independent claim. Claims 1, 2, 5, 6, and 10-12 are sought to be amended without prejudice to or disclaimer of any subject matter therein. Claims 13-24 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Personal Interview with Examiner

A personal interview was held on Tuesday, March 26, 2003, between Examiner Frank Lu, Ph.D., Supervisory Primary Examiner Ethan Whisenant, Ph.D., and Applicants' representative Kendrick P. Patterson (Registration No. 45,321). Applicants

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would like to thank Examiners Lu and Whisenant for a helpful and constructive interview.

During the interview, Applicants' representatives discussed pending claims 1-12, and proposed to amend the claims to address the Examiner's concerns. During the interview, the Examiners provisionally agreed to the proposed amendments as restated herein.

Applicants' representative also discussed the status of unelected claims 13-24, and agreed to cancel the unelected claims to advance prosecution of claims 1-12.

Rejections under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected claims 1-12 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Paper No. 9, page 2. In light of the foregoing claim amendments, Applicants believe these rejections are no longer valid and/or have been rendered moot with respect to claims 1 and 3-12. However, regarding claim 2, Applicants respectfully traverse this rejection.

The Examiner asserts that claim 2 is vague and indefinite because claim 2 further limits the "distributing step" of claim 1 by including a "processing step" within said "distributing step". See Paper No. 9, page 3. This is not the intent of the Applicants. Claim 2, as currently amended, recites:

A method according to claim 1, wherein said distributing step comprises the step of:

distributing the test aliquot among a plurality of reaction wells within said separation medium, wherein said processing step comprises placing said intensity

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values into intensity profiles, each intensity profile representing a subset of said fragments from a corresponding reaction well.

In claim 2, Applicants seek to further limit the "distributing step" as recited therein to comprise a "plurality of reaction wells." Applicants also seek to explain the interrelationship of this feature to the other steps or elements of claim 1, namely the "processing step" of claim 1. To that end, claim 2 explains the relationship of the "intensity values" of claim 1 to the "reaction wells" of claim 2. Therefore, claim 2 is not intended to introduce a "processing step" in the "distributing step." Rather, the wherein clause following the "distributing step" further limits the "processing step" of claim 1 by explaining the relationship between the "distributing step" and the "processing step."

Therefore, Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections of claims 1-12, and allowance thereof.

Restriction/Cancellation of Unelected Claims

In Applicant's Reply to Restriction Requirement (dated May 10, 2002), claims 1-12 were provisionally elected without traverse in response a Restriction Requirement made by the Examiner on April 11, 2002. Applicants hereby cancel unelected claims 13-24 without prejudice to or disclaimer of any subject matter herein.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the

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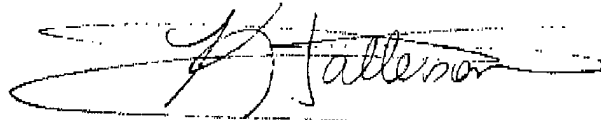
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Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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March 28, 2003

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